
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DōTERRA HOLDINGS, LLC, a Utah limited liability company; and DōTERRA INTERNATIONAL, LLC, a Utah limited liability company,

Plaintiffs,

v.

KIMBJOH78, a person or business entity of unknown type; and KIMBERLY JOHNSON, an individual,

Defendants.

**MEMORANDUM DECISION AND
ORDER GRANTING MOTION FOR
EXPEDITED THIRD-PARTY
DISCOVERY (DOC. NO. 5)**

Case No. 2:22-cv-00570

Magistrate Judge Daphne A. Oberg

Plaintiffs dōTERRA Holdings, LLC and dōTERRA International, LLC (collectively, “dōTERRA”) move for expedited discovery in advance of a Rule 26(f) scheduling conference in order to identify a defendant in this case.¹ DōTERRA alleges defendant “kimbjoh78,” an unknown person or entity, advertises and sells counterfeit versions of dōTERRA products on the website ebay.com.² DōTERRA asserts claims for trademark infringement and unfair competition, among other claims.³ DōTERRA seeks leave to serve eBay, Inc. with a subpoena for information regarding the kimbjoh78 account in order to identify this defendant.⁴

¹ (See Ex Parte Mot. for Expedited Third-Party Discovery Regarding “Kimbjoh78” (“Mot.”), Doc. No. 5.)

² (Compl. ¶¶ 3, 16–19, Doc. No. 2.)

³ (Id. ¶¶ 37–63.)

⁴ (Mot. 2, Doc. No. 5.)

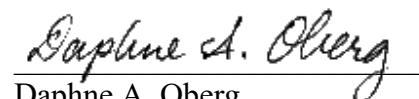
Rule 26 of the Federal Rules of Civil Procedure provides “[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except . . . when authorized by these rules, by stipulation, or by court order.”⁵ “[A] party seeking expedited discovery in advance of a Rule 26(f) conference has the burden of showing good cause for the requested departure from usual discovery procedures.”⁶ “Good cause may be satisfied in cases involving claims of unfair competition and infringement.”⁷

dōTERRA has shown good cause to permit expedited discovery regarding the kimbjoh78 account, based on dōTERRA’s claim that this account is being used to sell counterfeit, infringing products. dōTERRA also presented evidence that eBay will not release user contact information without a subpoena.⁸ Under these circumstances, dōTERRA has demonstrated this discovery is necessary to identify and serve the unknown defendant.

dōTERRA’s motion for expedited discovery is GRANTED. dōTERRA may serve a subpoena on eBay, Inc. for information related to the kimbjoh78 account, including the identity and contact information of the account holder.

DATED this 14th day of October, 2022.

BY THE COURT:



Daphne A. Oberg
United States Magistrate Judge

⁵ Fed. R. Civ. P. 26(d)(1).

⁶ *Vient v. Ancestry*, No. 2:19-cv-00051, 2019 U.S. Dist. LEXIS 237828, at *2 (D. Utah Mar. 4, 2019) (unpublished) (quoting *Qwest Commc’s Int’l, Inc. v. WorldQuest Networks, Inc.*, 213 F.R.D. 418, 419 (D. Colo. 2003)).

⁷ *Crazy ATV, Inc. v. Probst*, No. 1:13-cv-00114, 2014 U.S. Dist. LEXIS 6414, at *4–5 (D. Utah Jan. 16, 2014) (unpublished) (internal quotation marks omitted).

⁸ (Decl. of Kipp S. Muir ¶ 5, Doc. No. 5-1.)